

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DION HARDAWAY,

Plaintiff,

v.

Case No. 05-70362

JAMES HAGGERTY, VINCENT GAUCI
CARL TABB, MICHAEL NOWAK,
DAVID SMITH, ROBERT MULVANEY, and
WILLIAM OVERTON,

HONORABLE AVERN COHN

Defendants.

PRELIMINARY INJUNCTION

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff, originally proceeding pro se, claims defendants have violated his right to practice his religion under the First Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc. In general terms, the case concerns the confiscation of materials related to the Nation of Gods and Earths/Five Percenters (NGE), a group that has been designated by the Michigan Department of Corrections (MDOC) as a Security Threat Group (STG). Plaintiff seeks to have the STG classification on the NGE removed and to be able to possess its literature. The matter has been referred to a magistrate judge for all pre-trial proceedings.

The Court's September 27, 2007 order makes clear that

[t]he case continues on only plaintiff's claim for injunctive relief (1) requesting the removal of the Nation of Gods and Earths/Five Percenters (NGE) Security Threat Group (STG) designation and (2) the MDOC's denial of religious literature to the group under RLUIPA.

Both parties filed motions for summary judgment. The magistrate judge recommends that plaintiff's motion be granted and defendants' motion be denied.

Pending before the Court are defendants' objections to the report and recommendation. For the reasons stated on the record at the hearing on December 17, 2009, plaintiff is entitled to receive and retain NGE literature and defendants are ENJOINED from prohibiting plaintiff from doing so until further order of the Court. The Court will issue a separate decision on the parties' pending summary judgment motions.

SO ORDERED.

Dated: December 23, 2009

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, December 23, 2009, by electronic and/or ordinary mail.

s/ Julie Owens
Case Manager, (313) 234-5160